

IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

★ MAY 02 2003 ★

LONG ISLAND OFFICE

UNITED STATES OF AMERICA,)	<u>CONSENT DECREE</u>
)	
Plaintiff,)	Civil Action
)	No. CV-03-2123
)	
-against-)	(Spatt, J.)
)	(Orenstein, M.J.)
COVENANT ABSTRACT COMPANY, INC.,)	
BRIAN BASS, S. CHARLES BUSCEMI,)	
MICHAEL M. CAPASSO, THOMAS A.)	
CAPASSO, RONALD DAVIES, RONALD)	
FARR, MICHAEL GRUNDFAST, IRWIN IZEN,)	
WILLIAM J. PORTER, ERIC SACKSTEIN,)	
BARRY SEGAL, GARY SMITH, and ALAN)	
WOLINSKY,)	
)	
Defendants.)	

This Consent Decree is entered into this 2nd day of May, 2003, between the United States of America, acting through the United States Department of Justice, United States Attorney's Office and the Eastern District of New York, on behalf of the Department of Housing and Urban Development ("HUD"), (collectively the "United States") and Covenant Abstract Company, Inc. ("Covenant"), which was a corporation that provided title insurance and escrow services, and the following owners of Covenant: Brian Bass, S. Charles Buscemi, Michael M. Capasso, Thomas A. Capasso, Ronald Davies, Ronald Farr, Michael Grundfast, Irwin Izen, William J. Porter, Eric Sackstein, Barry Segal, Gary Smith, and Alan Wolinsky (collectively, the "Owners"). Covenant and the Owners identified above shall be collectively referred to in this

Consent Decree as the "Covenant Parties." The United States and the Covenant Parties shall be collectively referred to in this Consent Decree as the "Parties."

WHEREAS, the Secretary of HUD is authorized by the Real Estate Settlement Procedures Act of 1974 ("RESPA"), 12 U.S.C. § 2601 et seq. to investigate possible violations of RESPA;

WHEREAS, Section 8(a) of RESPA, 12 U.S.C. § 2607(a), requires that "[n]o person shall give and no person shall accept any fee, kickback or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person.";

WHEREAS, the settlement services provided by the Covenant Parties included transactions that involved federally related mortgage loans and are therefore covered by RESPA;

WHEREAS, as a result of its inquiry and investigation, the United States has determined that the Covenant Parties entered into business arrangements whereby the Owners referred business to Covenant and Covenant later compensated the Owners for such referral activities allegedly in violation of Section 8(a) of RESPA (hereinafter referred to as the "Covered Conduct");

WHEREAS, the Covenant Parties deny any wrongdoing in connection with the Covered Conduct;

WHEREAS, Covenant represents that it ceased the Covered Conduct in August 2001, ceased operations on December 31, 2001, and no longer provides title insurance or escrow services;

WHEREAS, the Covenant Parties represent that any statements they have made to the United States regarding the Covered Conduct have been truthful and accurate;

WHEREAS, the Covenant Parties and the United States agree that it is in the interest of all parties to enter into this Consent Decree;

WHEREAS, this Consent Decree shall not constitute an admission of liability or fault on the part of Covenant or any of the individual Owners;

NOW THEREFORE, in consideration of the mutual promises and representations set forth herein, and in further consideration of the reliance by the United States on the truthfulness of the statements made and information provided by the Covenant Parties, the parties hereby agree to, and intend to be legally bound by, the following:

1. The Covenant Parties agree that they will not give or accept any fees or other things of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person.

2. The Covenant Parties shall pay to the United States, upon the entry of this Consent Decree, the amount of Two Hundred Thousand Dollars (\$200,000) (the "Settlement Amount"). This payment shall be made by certified check payable to the "United States Department of the Treasury" and delivered to the U.S. Attorney's Office, Financial Litigation Unit, One Pierrepont Plaza, 16th Floor, Brooklyn, New York 111201, Attn: Brenda Hinkson.

3. Covenant Abstract agrees to discontinue doing business for a period of three (3) years from January 1, 2002 through December 31, 2004.

4. The Owners agree to divest themselves of any ownership interest they have in Covenant and any other title company and not acquire any ownership interest in any other title company for a period of three (3) years from January 1, 2002 through December 31, 2004.

5. Covenant and related title agencies have filed amended corporate tax returns for the tax years ending June 30, 1999, June 30, 2000 and June 30, 2001 ("the subject years"). Covenant and the related title agencies shall cooperate fully with the IRS in the ascertainment, computation and payment of their correct federal income tax liability for the subject years. The Covenant Parties agree to be jointly and severally liable for any additional tax payments, interest and penalties that may be due with respect to the subject years.

6. The Covenant Parties agree to comply with RESPA and any implementing regulations in the future and agree to fully cooperate with the United States in their ongoing investigation of violations of RESPA. This includes, but is not limited to, making themselves available for debriefing, preparation and/or testimony, upon reasonable notice.

7. By entering into this Consent Decree, the United States is not approving any practice by the Covenant Parties. Subject to the terms and conditions of this Consent Decree and conditioned upon the payment in full of the settlement amount set forth in Paragraph 2, the United States (on behalf of itself and HUD) hereby release Covenant Abstract Company, Inc. and each of the Owners from any legal or administrative claim, penalty, sanction, or remedy that the United States and HUD have for or relating to the Covered Conduct.

8. Should the Covenant Parties fail to comply with the terms and conditions of this Consent Decree or should any material statement made by any of the Covenant Parties be false, the United States may, at its sole option as to the breaching party or parties, declare this agreement breached and proceed against the breaching party or parties with regard to the underlying claims. If a court determines that the Covenant Parties have breached the terms of this Consent Decree, the United States shall retain the Settlement Amount as liquidated damages for the Covered Conduct.

9. The Covenant Parties agree that the violation of this Consent Decree by any of the Covenant Parties will be a cause for suspension and/or debarment of the breaching party pursuant to 24 C.F.R. §§ 24.305 and 24.405, in any subsequent suspension or debarment proceeding arising from an alleged breach of this Consent Decree. In any such proceeding, the Covenant Parties will have the right to an administrative hearing on the sole issue of whether the breaching party has violated the Consent Decree.

10. This Consent Decree does not limit the rights of the United States to conduct any possible future violation of RESPA by any of the Covenant Parties or to monitor the compliance of the Covenant parties with this Consent Decree.

11. Each of the Parties to this Consent Decree shall bear its own attorney's fees and costs.

12. This Consent Decree applies to Covenant, its subsidiaries, affiliates, successors and assigns and each of the Owners.

13. The Covenant Parties represent that this Consent Decree is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

14. This Consent Decree constitutes the complete agreement between the Parties. This Consent Decree may not be amended except by written consent of the parties.

15. This Consent Decree may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same agreement.

16. This Consent Decree is effective on the date of signature of the last signatory to the Consent Decree.

17. The Parties agree that all disputes relating to the enforcement and interpretation of this Consent Decree shall be subject to the jurisdiction and venue of the United

States District Court for the Eastern District of New York and that such Court shall have jurisdiction for the purpose of enforcing this Consent Decree

18. Upon final execution of this Consent Decree, the United States and HUD shall consider the past actions of the Covenant Parties concerning the Covered Conduct closed, consistent with the faithful performance by the Covenant Parties of the obligations imposed herein.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Consent Decree.

Dated: Central Islip, New York

~~February~~ 5-2-03

ROSLYNN R. MAUSKOPF
United States Attorney
Attorney for Plaintiff
United States of America
Eastern District of New York
610 Federal Plaza, 5th Floor,
Central Islip, New York 11722

By:

Kevin P. Mulry 5-2-03
KEVIN P. MULRY
Assistant U.S. Attorney
(631) 715-7865

COUNSEL FOR DEFENDANTS


Phillip L. Schulman 3-18-03
PHILLIP L. SCHULMAN

Eugene R. Licker 3-17-03
EUGENE R. LICKER

United States District Court for the Eastern District of New York shall have jurisdiction for the purpose of enforcing this Consent Decree.

AGREED AND CONSENTED TO BY:

COVENANT ABSTRACT CO., INC.


Eric S. Weinstein, Authorized Agent

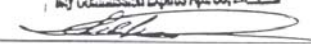

Brian Bass

S. Charles Buscemi


Before me this 10th day of March 2003, came Eric S. Weinstein, known to me to be the person who signed the foregoing document, and she acknowledged to me that she signed it.


Notary Public WILLIAM J. PORTER
NOTARY PUBLIC, State of New York
No. 02P08413250
Qualified in Suffolk County
My Commission Expires Apr. 30, 2004

Before me this 10th day of March 2003, came Eric S. Weinstein, known to me to be the person who signed the foregoing document, and she acknowledged to me that she signed it.

WILLIAM J. PORTER
NOTARY PUBLIC, State of New York
No. 02P08413250
Qualified in Suffolk County
My Commission Expires Apr. 30, 2004

Notary Public

Before me this 10th day of March 2003, came Brian Bass, known to me to be the person who signed the foregoing document, and she acknowledged to me that she signed it.

WILLIAM J. PORTER
NOTARY PUBLIC, State of New York
No. 02P08413250
Qualified in Suffolk County
My Commission Expires Apr. 30, 2004

Notary Public


United States District Court for the Eastern District of New York shall have jurisdiction for the purpose of enforcing this Consent Decree.

AGREED AND CONSENTED TO BY:

COVENANT ABSTRACT CO., INC.

Eric Sackstein, Authorized Agent

Brian Bass



S. Charles Buscemi



Michael M. Capasso

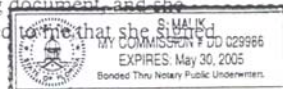
Before me this ____ day of _____
2003, came _____, known
to me to be the person who signed
the foregoing document, and she
acknowledged to me that she signed
it.

Notary Public

Before me this ____ day of _____
2003, came _____, known
to me to be the person who signed
the foregoing document, and she
acknowledged to me that she signed
it.

Notary Public

Before me this 12 day of March
2003, came Saint C Buscemi, known
to me to be the person who signed
the foregoing document, and she
acknowledged to me that she signed
it.





Notary Public

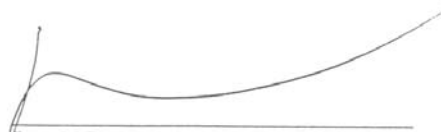
Before me this ____ day of _____
2003, came _____, known
to me to be the person who signed
the foregoing document, and she
acknowledged to me that she signed
it.

Notary Public



Michael M. Capasso


Thomas A. Capasso

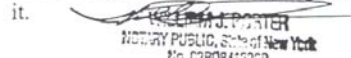

Ronald Davies


Ronald Farr

Before me this 26th day of February
2003, came Michael M. Capasso known
to me to be the person who signed
the foregoing document, and she
acknowledged to me that she signed
it.


Notary Public, State of New York
Qualified in Suffolk County
My Commission Expires Apr. 30, 2004

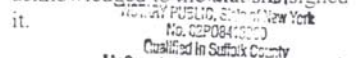
Before me this 10th day of March
2003, came Thomas A. Capasso known
to me to be the person who signed
the foregoing document, and she
acknowledged to me that she signed
it.


Notary Public, State of New York
No. 02P08410200
Qualified in Suffolk County
My Commission Expires Apr. 30, 2004

Before me this ___ day of ___
2003, came Ronald Farr, known
to me to be the person who signed
the foregoing document, and she
acknowledged to me that she signed
it.


Notary Public

Before me this 27th day of February
2003, came Ronald Davies, known
to me to be the person who signed
the foregoing document, and she
acknowledged to me that she signed
it.


Notary Public, State of New York
No. 02P08410200
Qualified in Suffolk County
My Commission Expires Apr. 30, 2004

Notary Public

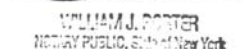

Michael Grundfast


Irwin Izen

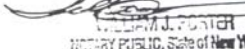

William Porter


Eric Sackstein

Before me this 11th day of March
2003, came Michael Grundfast, known
to me to be the person who signed
the foregoing document, and she
acknowledged to me that she signed
it.


WILLIAM J. PORTER
NOTARY PUBLIC, State of New York
No. 02P08413293
Notary Public Qualified in Suffolk County
My Commission Expires Apr. 30, 2004

Before me this 12 day of MARCH
2003, came Irwin Izen, known
to me to be the person who signed
the foregoing document, and she
acknowledged to me that she signed
it.


WILLIAM J. PORTER
NOTARY PUBLIC, State of New York
No. 02P08413293
Notary Public Qualified in Suffolk County
My Commission Expires Apr. 30, 2004

Before me this 10th day of March
2003, came WILLIAM PORTER, known
to me to be the person who signed
the foregoing document, and he
acknowledged to me that he signed
it.


JAMES J. FRAYNE
NOTARY PUBLIC, STATE OF NEW YORK
COMMISSION IN SUFFOLK COUNTY
Notary Public

Before me this 10 day of MARCH
2003, came Eric Sackstein, known
to me to be the person who signed
the foregoing document, and she
acknowledged to me that she signed
it.


WILLIAM J. PORTER
NOTARY PUBLIC, State of New York
No. 02P08413293
Notary Public Qualified in Suffolk County
My Commission Expires Apr. 30, 2004

